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RE: OFFICIAL PAPER
TO: Examiner J. Kading
U.S. Patent and Trademark Office
GAU: 2661
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FROM: Eugene J. Rosenthal
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DATE: February 18, 2005
Pages (incl. Cover): 6

Re: AMENDMENT
Case No.: W. J. Rowe 1
Ser. No.: 09/660027
File Date: September 12, 2000
Title: Cable Modem Termination System For
Upstream Frequency Band

Certification of Facsimile Transmission

I hereby certify that this correspondence (and any paper referred to as being transmitted therewith) is being facsimile transmitted to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313 on the date indicated below.

Feb. 18, 2005
Date

Sharon Lobosco
SHARON LOBOSCO

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

William J Rowe

CASE 1

Serial No. 09/660027

Group Art Unit 2661

Filed September 12, 2000

Examiner J. Kading

Title Cable Modem Termination System For Upstream Frequency Band

COMMISSIONER FOR PATENTS

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SIR:

Enclosed is an amendment in the above-identified application.

NO ADDITIONAL FEE REQUIRED

In the event of non-payment or improper payment of a required fee, the Commissioner is authorized to charge or to credit **Deposit Account No. 12-2325** as required to correct the error.

Respectfully,



Eugene J. Rosenthal, Attorney

Reg. No. 36658

732-949-1857.

Date:

2/18/05

Docket Administrator (Room 3J-219)
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February 18, 2005


Sharon Labosco

Serial No. 09/660,027

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Patent Application

Inventor(s): William J. Rowe
Case: 1
Serial No.: 09/660,027
Filed: September, 12, 2000
Examiner: J. A. Kading
Title: Cable Modem Termination System For Upstream Frequency Band
Group Art Unit: 2661

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RESPONSE

This communication is in response to the Office Action dated December 29, 2004.

Remarks

Claim 8 remains pending in the application.

Claim 8 was rejected under 35 U.S.C. 103 (a) in view of WO 00/28712, hereinafter Jones et al., in view of United States Patent No. 6,775,480 issued to Naegel et al. on August 10, 2004. The Office Action states that Jones et al. teaches all the elements of claim 8, except for reducing the prescribed period of time and repeating the searching step when the searching step failed to find a channel with an acceptable noise level over the prescribed period. However, the Office Action further states that Naegel et al. teaches these steps.

Applicant respectfully disagrees and traverses this ground of rejection for the teaches following reasons.

Notwithstanding the Office Action's suggestion to the contrary, Naegel et al. does not teach reducing the prescribed period of time and repeating the searching step when the searching step failed to find a channel with an acceptable noise level over the prescribed period. Instead, Nagel et al. appears to teach continual monitoring of the noise